Remarks

The Final Office Action mailed 27 March 2003 has been received and reviewed. Applicants are filing this response with a Request for Continued Examination to address the rejections set forth in that Office Action, cite additional art in an Information Disclosure Statement, and present new claims 56-70. As a result, claims 21-48 and 50-70 are pending in the present application. Reconsideration and withdrawal of the rejections are respectfully requested.

New Claims

New claims 56-70 are presented to provide more comprehensive protection for the Applicants. Entry and consideration of these claims are respectfully requested.

Support for new claim 56 can be found in the application as filed at, e.g., p. 4, lines 19-23; p. 5, lines 23-26; p. 18, lines 12-14, etc.

Support for new claims 57 & 58 can be found in the application as filed at, e.g., p. 5, line 23 to page 6, line 2.

Support for new claim 59 can be found in the application as filed at, e.g., p. 4, lines 19-25 and FIG. 1.

Support for new claim 60 can be found in the application as filed at, e.g., p. 6, lines 25-26 and page 8, lines 21-26.

Support for new claim 61 can be found in the application as filed at, e.g., p. 4, lines 19-25.

Support for new claim 62 can be found in the application as filed at, e.g., p. 5, lines 8-9.

Support for new claim 63 can be found in the application as filed at, e.g., p. 5, line 5.

Support for new claim 64 can be found in the application as filed at, e.g., p. 5, lines 3-4.

Support for new claim 65 can be found in the application as filed at, e.g., p. 5, line 6.

Support for new claim 66 can be found in the application as filed at, e.g., p. 4, line 31 to page 5, line 1.

Support for new claim 67 can be found in the application as filed at, e.g., p. 4, lines 29-31.

Support for new claim 68 can be found in the application as filed at, e.g., p. 10, lines 7-11.

Support for new claim 69 can be found in the application as filed at, e.g., p. 5, line 23 to page 6, line 2.

Support for new claim 70 can be found in the application as filed at, e.g., p. 8, lines 21-26.

The 35 U.S.C. §102 Rejection

Claims 21-31, 33-35, 37, 39, 40, 42-48, 50-53, and 55 were rejected under 35 U.S.C. §102(b) as being anticipated by Thomas (U.S. Patent No. 5,586,371). Applicants respectfully traverse that rejection for reasons presented previously and for the additional reasons presented below.

Applicants submit that claims 21-31, 33-35, 37, 39-40, 42-53 and 55 are not anticipated by Thomas because Thomas does not teach each and every element of the rejected claims. For a claim to be anticipated under 35 U.S.C. § 102(b), each and every element of the claim must be found in a single prior art reference. *See* M.P.E.P. § 2131.

Each of the independent claims of the present invention (i.e., claims 21, 40, and 48) recites a plurality of discrete polymeric regions fused to a first major side of the web. A plurality of stems extends from each discrete polymeric region of the plurality of polymeric regions.

In contrast to claims 21, 40, and 48, Thomas teaches an array of loops 22 attached to a substrate 24. Each individual loop is attached to the substrate 24 by a base 26. Similarly, Thomas discloses an array of hooks 44 attached to the substrate 24. Each individual hook 44 is attached to the substrate 24 by a base. In other words, each "discrete polymeric region" on the substrates of Thomas provides only one feature - either a loop or a hook.

In contrast, the rejected independent claims (21, 40, and 48) each recite "a plurality of stems extending from each discrete polymeric region of the plurality of polymeric regions." Thomas, however, does not disclose two or more loops or hooks extending from any one base. As a result, Thomas does not teach a plurality of any feature extending from any single region on the substrate. Because Thomas does not teach each and every element of claims 21, 40, and 48, Thomas cannot anticipate any of independent claims 21, 40, and 48.

Furthermore, Applicants traverse the assertion that Thomas teaches polymeric regions that are "fused" to a substrate to a degree that supports an anticipation rejection. Thomas does not explicitly teach that the polymeric materials are "fused" to the substrate, but rather teaches only that the bases of the loops or hooks are "deposited" on the substrate. As such, the assertion is based on inherency, i.e., that Thomas inherently teaches fused polymeric regions. The standard for inherency with respect to anticipation, however, requires that the asserted result (i.e., fused polymeric regions) must necessarily result from the process disclosed in Thomas. Applicants respectfully submit that the burden of establishing inherency has not been met in the present rejection.

Claims 22-31, 33-35, 37, 39, 42-47, 50-53, and 55, which depend from one of independent claims 21, 40, and 48, are not anticipated by Thomas for the same reasons as presented above for claims 21, 40, and 48. In addition, such dependent claims each recite additional elements that further support patentability when combined with their respective independent claims.

For at least the above reasons, Applicants submit that claims 21-31, 33-35, 37, 39-40, 42-53 and 55 are not anticipated by Thomas. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

The 35 U.S.C. §103 Rejections

Claims 32, 41, and 54 were rejected under 35 U.S.C. §103(a) as being unpatentable over Thomas (U.S. Patent No. 5,586,371) in view of Murasaki (U.S. Patent No. 5,643,651).

Applicants traverse this rejection and submit that claims 32, 41, and 54 are not *prima facie* obvious for at least the following reasons. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143.

Applicants submit that claims 32, 41, and 54 are not *prima facie* obvious. As stated above in regard to the 34 U.S.C. § 102(b) rejection of claims 21, 40, and 48, from which claims 32, 41, and 54 depend, Thomas does not teach every element of claims 21, 40, and 48 (e.g., a plurality of stems extending from each discrete polymeric region or polymeric regions fused to a first major side of the web).

Nor does this rejection identify any suggestion or motivation as to why one of ordinary skill in the art would modify the teachings of Thomas to reach the claimed invention.

For at least the above reasons, Applicants submit that claims 32, 41, and 54 are not *prima facie* obvious in view of the cited references. Reconsideration and withdrawal of the rejections are, therefore, respectfully requested.

Claim 36 was rejected under 35 U.S.C. §103(a) as being unpatentable over Thomas (U.S. Patent No. 5,586,371).

Applicants traverse this rejection and submit that claim 36 is not *prima facie* obvious because Thomas does not teach every element of claim 36. Claim 36 depends from independent claim 21. As stated above in regard to the 35 U.S.C. § 102(b) rejection of claim 21, Thomas does not teach every element of claim 21. In addition, claim 36 recites additional elements that further support patentability when combined with claim 21.

For at least the above reasons, Applicants submit that claim 36 is not *prima facie* obvious in view of Thomas. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

Claim 38 was rejected under 35 U.S.C. §103(a) as being unpatentable over Thomas (U.S. Patent No. 5,586,371) in view of Shephard et al. (U.S. Patent No. 6,205,623).

Applicants traverse this rejection and submit that claim 38 is not *prima facie* obvious because the combination of Thomas and Shepard et al. does not teach every element of claim 38. Claim 38, which depends from claim 21, includes all of the elements of claim 21. As stated above in regard to the 35 U.S.C. § 102 rejection of claim 21, Thomas does not teach every element of claim 21. The addition of Shepard et al. does nothing to cure the deficiencies of Thomas.

For that reason alone, Applicants respectfully submit that a *prima facie* case of obviousness has not been established.

In addition, Applicants respectfully submit that even if, for the sake of argument, a mushroom fastener is equivalent to a hook for fastening purposes, a *prima facie* case of obviousness would require some reasonable expectation of success for the asserted modification. Given that the teachings of Thomas are entirely directed at the manufacture of hooks or loops by severing strands of polymer under tension such that the severed strands recoil to form hooks or loops, Applicants submit that a proper *prima facie* case of obviousness requires some discussion as to how one would modify the teachings of Thomas to provide mushroom shaped fasteners as recited in claim 38. There is no such discussion and, as a result, a *prima facie* case of obviousness has not been established.

For at least the above reasons, Applicants submit that claim 38 is not *prima facie* obvious in view of the cited references. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

Summary

It is respectfully submitted that the pending claims 21-48 and 50-70 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
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CERTIFICATE UNDER 37 CFR §1.8:
The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, Mail Stop RCE, P.O. Box 1450, Alexandria, VA 22313-1450, on this 11th day of July, 2003, at 1:42 p.m. (Central Time).

By: _____
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APPENDIX A - CLAIM AMENDMENTS
INCLUDING NOTATIONS TO INDICATE CHANGES MADE
Serial No.: 09/822,651
Docket No.: 54407US006

Amendments to the following are indicated by underlining what has been added and bracketing what has been deleted.

In the Claims

~~For convenience, all pending claims are shown below.~~ (1-20 canceled)

21. A web construction comprising:

a web coextensive with the web construction, wherein the web comprises two opposing sides and an indefinite length;

a plurality of discrete polymeric regions fused to a first major side of the web; and

a plurality of stems extending from each discrete polymeric region of the plurality of polymeric regions.

E1

22. A web construction according to claim 21, wherein the web comprises loop structures adapted to lock with the plurality of stems.

23. A web construction according to claim 21, wherein the web comprises an elastic web.

24. A web construction according to claim 21, wherein the web comprises fibrous material.

25. A web construction according to claim 21, wherein the web comprises a porous web.

26. A web construction according to claim 21, wherein the web comprises woven web material.

27. A web construction according to claim 21, wherein the web comprises nonwoven web material.

28. A web construction according to claim 21, wherein the web comprises knit web material.

29. A web construction according to claim 21, wherein the plurality of discrete regions comprises a plurality of stripes extending over the first major side of the web.

30. A web construction according to claim 21, wherein the plurality of discrete regions comprises a plurality of patches on the first major side of the web.

31. A web construction according to claim 21, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane.

E1 cont'd

32. A web construction according to claim 21, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is angled in multiple directions.

33. A web construction according to claim 21, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is angled in the same direction.

34. A web construction according to claim 21, wherein the plurality of discrete regions covers between 1 and 99 percent of the first major side of the web.

35. A web construction according to claim 21, wherein the plurality of discrete regions covers between 20 and 80 percent of the first major side of the web.

36. A web construction according to claim 21, wherein the plurality of discrete regions covers between 5 and 25 percent of the first major side of the web.

37. A web construction according to claim 21, wherein the plurality of discrete regions is separated from one another by an average of approximately 0.05 and 30 centimeters.

38. A web construction according to claim 21, wherein each stem of the plurality of stems comprises a mushroom head.

39. A web construction according to claim 21, wherein each stem of the plurality of stems comprises a hook.

E 1 cont'd

40. A web construction comprising:

an elastic web coextensive with the web construction;

a plurality of discrete polymeric regions fused to a first major side of the web; and

a plurality of stems extending from each discrete polymeric region of the plurality of polymeric regions, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane.

41. A web construction according to claim 40, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is angled in multiple directions.

42. A web construction according to claim 40, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is angled in the same direction.

43. A web construction according to claim 40, wherein the plurality of discrete regions comprises a plurality of stripes extending over the first major side of the web.

44. A web construction according to claim 40, wherein the plurality of discrete regions comprises a plurality of patches on the first major side of the web.

45. A web construction according to claim 40, wherein the web comprises loop structures adapted to lock with the plurality of stems.

E1 cont'd

46. A web construction according to claim 40, wherein the web comprises fibrous material.

47. A web construction according to claim 40, wherein the web comprises a porous web.

48. A web construction comprising:

an elastic web comprising loop structures, wherein the elastic web is coextensive with the web construction;

a plurality of discrete polymeric regions fused to a first major side of the web; and

a plurality of stems extending from each discrete polymeric region of the plurality of polymeric regions, wherein the plurality of stems is adapted to lock with the loop structures of the web.

50. A web construction according to claim 48, wherein the web comprises fibrous material.

51. A web construction according to claim 48, wherein the plurality of discrete regions comprises a plurality of stripes extending over the first major side of the web.

52. A web construction according to claim 48, wherein the plurality of discrete regions comprises a plurality of patches on the first major side of the web.

53. A web construction according to claim 48, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane.

54. A web construction according to claim 48, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is angled in multiple directions.

55. A web construction according to claim 48, wherein the web defines a localized plane, and wherein the plurality of stems is oriented at an angle that is not normal to the localized plane, and further wherein the plurality of stems is angled in the same direction.

56. (NEW) A mechanical fastener comprising:

a nonwoven web with at least one discrete polymeric region fused to a first major side of the nonwoven web such that polymer of the at least one discrete polymeric region is entangled with a fibrous surface of the nonwoven web; and

a plurality of stems extending from the at least one discrete polymeric region.

57. (NEW) A mechanical fastener according to claim 56, wherein the nonwoven web comprises a composite comprising a film layer.

58. (NEW) A mechanical fastener according to claim 56, wherein the nonwoven web comprises an elastic web.

59. (NEW) A mechanical fastener according to claim 56, wherein the at least one discrete

polymeric region is surrounded by exposed portions of the nonwoven web.

60. (NEW) A mechanical fastener according to claim 56, wherein the at least one discrete polymeric region comprises a stripe extending over the first major side of the nonwoven web.

61. (NEW) A mechanical fastener according to claim 56, wherein the at least one discrete polymeric region comprises a plurality of discrete polymeric regions on the first major side of the nonwoven web.

E1 cont'd

62. (NEW) A mechanical fastener according to claim 61 wherein the plurality of discrete polymeric patches are separated from one another by an average of approximately 0.05 to 30 centimeters.

63. (NEW) A mechanical fastener according to claim 56, wherein the at least one discrete polymeric region covers between 1 and 99 percent of the first major side of the nonwoven web.

64. (NEW) A mechanical fastener according to claim 56 wherein the at least one discrete polymer region covers between 20 and 80 percent of the first major side of the nonwoven web.

65. (NEW) A mechanical fastener according to claim 56, wherein the at least one discrete polymer region covers between 5 and 25 percent of the first major side of the nonwoven web.

66. (NEW) A mechanical fastener according to claim 56, wherein each stem of the plurality of stems comprises a mushroom head.

67. (NEW) A mechanical fastener according to claim 56, wherein each stem of the plurality of stems comprises a hook.

68. (NEW) A mechanical fastener according to claim 56, wherein the mechanical fastener comprises a diaper fastener.

E1 cont'd

69. (NEW) A mechanical fastener according to claim 57, wherein the nonwoven web comprises elastic material.

70. (NEW) A mechanical fastener according to claim 60, wherein the stripe extends in a transverse direction across the nonwoven web.